SUPREME COURT OF THE UNITED STATES.

No. 62.

EDWARD PRIGG, PLAINTIFF IN ERROR,

vs.

THE COMMONWEALTH OF PENNSYLVANIA.

IN ERROR TO THE SUPREME COURT OF THE STATE OF PENNSYLVANIA.

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S. D. Langtree, Print.

To the Chief Justice and Associate Justices of the Supreme Court of the United States, complains Edward Prigg, of the State of Maryland:

That in the record of a suit wherein the said Edward Prigg was plaintiff in error, and the State of Pennsylvania was defendant in error, in the supreme court of Pennsylvania, for the Middle District, held at Harrisburg, in the county of Dauphin, on the twenty-third day of May, eighteen hundred and forty, whereof an authenticated transcript in the said Supreme Court of the United States shall be produced, the following manifest error hath intervened, to wit: that the judgment in said court is "judgment of the court of oyer and terminer aforesaid affirmed," whereas the said judgment should have been, that said judgment should be reversed, the acts of assembly on which it was grounded, and which had been passed by the State of Pennsylvania, being repugnant to the Constitution and laws of the United States, and therefore void.

Wherefore the said Edward Prigg pray the consideration of the Justices of the said Supreme Court of the United States, and that the judgment aforesaid may be reversed.

JNO. NELSON,
J. MEREDITH,
Attornies for Edward Prigg.

UNITED STATES, *sct.*

The President of the United States to the Judges of the Supreme Court of Pennsylvania, greeting:

Because that in the record and process and also in the rendering of judgment in a suit before you or some of you between Edward Prigg, plaintiff in error, and the Commonwealth of Pennsylvania, defendant in error, in an indictment for kidnapping, a manifest error has intervened to the great damage of the said Edward Prigg, as in his complaint has been stated, and as it is just and proper that the error, if any there be, should be corrected in due manner, and that full and speedy justice should be done to the parties aforesaid in this behalf, you are hereby commanded that if judgment thereof be given, then under your seal you do distinctly and openly send the record and process in the suit aforesaid, with all things concerning them and this writ, so that you have the same before the Chief Justice and the Associate Justices of the Supreme Court of the United States on the second Monday of January next

at the city of Washington, being the seat of National Government, that the record and process aforesaid being inspected, they may cause to be done thereupon, what of right ought to be done.

Witness the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, at Washington aforesaid, this seventh day of December, A. D. 1840, and in the sixty-fifth year of the independence of the said United States.

[L. S.]

FRA. HOPKINSON,
Clk. Circuit Court.

Allowed by,

JOHN BANNISTER GIBSON,
Chief Justice of the Supreme Court of Pennsylvania.

UNITED STATES,
District of Pennsylvania, sct.

To the Commonwealth of Pennsylvania.

Whereas by a writ of error issued out of the circuit court of the United States in and for the eastern district of Pennsylvania in the third circuit directed to the judges of the supreme court of Pennsylvania, wherein Edward Prigg is complainant, the said judges are directed to send the proceedings and process of a certain suit with all things concerning them, so that the same may be had before the Chief Justice and Associate Justices of the Supreme Court of the United States on the second Monday of January next, at the city of Washington, being the seat of National Government in which suit the said Edward Prigg is original plaintiff, and you the said The Commonwealth of Pennsylvania, defendant, in a plea of indictment for kidnapping, that the record and process aforesaid being inspected they the said Supreme Court may cause to be done thereupon what of right ought to be done, and the said Edward Prigg, the complainant having made an assignment of errors and given good and sufficient security that the plaintiff in error shall prosecute his writ to effect, and answer all damages and costs if he fail to make his plea good. You are hereby cited to appear (if you see cause) at the said Supreme Court at the time and place aforesaid to answer to the said writ of error and the errors assigned by the said

Given under my hand and seal, this twenty-ninth day of December in the year of our Lord one thousand eight hundred and forty.

[L. S.]

JOHN BANNISTER GIBSON,
Chief Justice of the Supreme Court of Pennsylvania.

I, Ovid F. Johnson, Attorney General of the Commonwealth of Pennyslvania, named in the foregoing citation, do, for, and in behalf of the said Commonwealth, acknowledge and accept service of said citation the second day of January, A. D. 1841.

OVID F. JOHNSON.

YORK COUNTY, *ss.*

Oyer and Terminer, April Sessions, 1837.

The Grand Inquest of the Commonwealth of Pennsylvania enquiring for the county of York, on their oaths and affirmations respectively do present, that Edward Prigg, Nathan S. Bemis, Jacob Forward and Stephen Lewis, jr. of said county, yeomen, on the first day of April, in the year of our Lord, one thousand eight hundred and thirty-seven, at the county aforesaid, and within the jurisdiction of this court, with force and arms in and upon a certain negro woman named Margaret Morgan, in the peace of God and this Commonwealth then and there being, an assault did make, and her the afosesaid negro woman, named Margaret Morgan, then and there with force and violence feloniously did take and carry away from the county aforesaid and within this Commonwealth, to the State of Maryland, the said State of Maryland, being a place out of this Commonwealth, with a design and intention then and there of selling, and disposing of, or of causing to be sold, the said negro woman, named Margaret Morgan, as and for a slave or servant for life.

To the evil example of all others in like case offending contrary to the form of the statute in such cases made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania, and the grand inquest aforesaid inquiry as aforesaid in and for the county aforesaid, do further present, that the said Edward Prigg, Nathan S. Bemis, Jacob Forward and Stephen Lewis, yeomen, afterwards to wit, on the day and year aforesaid, at the county aforesaid, and within the jurisdiction of this court, with force and arms in and upon a certain negro woman, named Margaret Morgan, in the peace of God and this Commonwealth then and there being, an assault did make, and her the aforesaid negro woman, named Margaret Morgan, there and then with force and violence feloniously did take and carry away from the county aforesaid to the State of Maryland, the said State of Maryland being a place out of the Commonwealth, with a design and intention then and there of selling and disposing of, or of causing to be sold, or of keeping and detaining, or of causing to be kept and deained, the said negro woman, named Margaret Morgan, as and for a slave or servant for life. To the evil example of all others in like cases offending against this form of the statute in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania. And the grand inquest aforesaid as inquiry aforesaid, in and for the county aforesaid do further present that Nathan S. Bemis, Jacob Forward, Stephen Lewis, yeomen, and the same Edward Prigg afterwards to wit, the

day and year aforesaid, at the county aforesaid and within the jurisdiction of this court, with force and arms in and upon a certain negro woman, named Margaret Morgan, in the peace of God and this Commonwealth, then and there being, an assault did make, and her the aforesaid negro woman, named Margaret Morgan, then and there with force and violence feloniously did take and carry away, and by fraud and false pretence did then and there feloniously seduce and cause to be seduced, taken and carried away from the county aforesaid, and within the Commonwealth, to the State of Maryland, the said State or Maryland being a place out of this Commonwealth, with a design and intention then and there of selling and disposing of, or of causing to be sold, or of keeping or detaining, or of causing to be kept and detained there and then the said negro woman, named Margaret Morgan, as a slave or servant for life. To the evil example of all others in like case offending against the form of the statute in such case made and provided, and against the peace and dignity of the Commonwealth of Pennsylvania.

JAMES FORD,
Atty. Genl.

JERRY MORGAN, swn.
WILLIAM M. CLEARY, swn.

No. 18.

COMMONWEALTH
vs.
EDWARD PRIGG et al. } April Sessions, 1837.

Indictment kidnapping.

True bill.

JACOB B. WENTZ,
Foreman.

Apl. 4, 1837.

Process awarded.

January 20, 1840.

Edward Prigg, one of the defendants, being arraigned, pleads not guilty.

COMMONWEALTH OF PENNSYLVANIA, *York County, ss.*

COMMONWEALTH
vs.
EDWARD PRIGG. } In the court of Quarter Sessions of York county, held Jan. 20, 1840.

Personally appeared Edward Prigg and acknowledged himself to owe and be indebted to the Commonwealth of Pennsylvania in the

sum of one thousand dollars, to answer unto a certain bill of indictment for kidnapping now depending against him in said court, conditioned for his appearance to answer unto said indictment, and to abide by such final decision in the premises as shall be had and made under the provisions of an act of Assembly relating thereto, passed the twenty-second day of May, eighteen hundred and thirty-nine. On complying with said conditions this recognizance to be void; otherwise enforced. Taken before us this 20th January, 1840.

D. DURKIE,
JOHN G. HINKLE.
Judges of the Court of Quarter Sessions of York County.

Test: GEORGE BARNITZ, *Clerk.*

THE COMMONWEALTH OF PENNSLVANIA
vs.
EDWARD PRIGG.

In the court of Quarter Sessions of peace for the county of York. Indictment for kidnapping. Judgment for the Commonwealth on special verdict.

And now on this 20th day of January 1840, come here into open court, the abovenamed defendant Edward Prigg, and makes oath that he hath determined to sue out a writ of error from the above judgment and removes the record thereof into the supreme court for the middle district of Pennsylvania, and that the same is not intended for delay.

EDWARD PRIGG.

Sworn to January 20, 1840, in open court.
GEORGE A. BARNITZ, *Clerk.*

COMMONWEALTH
vs.
EDWARD PRIGG, NATHAN BEMIS, JACOB FORWARD, STEPHEN LEWIS.

Indictment kidnapping, true bill, April 4th 1837; process awarded, January 20, 1840.

Edward Prigg, one of the defendants, appeared in the court of quarter sessions of York county, and was recognized agreeably to the provisions of an act of Assembly passed the 22d day of May, A. D. 1839, relating thereto. Same day defendant being arraigned, plead not guilty *et de hoc*, attorney general Ovid F. Johnson *similiter et issue*. Whereupon a jury of the county being selected, called, came to wit: Jacob Gable, Jacob Bowman, John Kline, and Daniel Gehley, James Chalfant, Jacob Young, Michael Smyser, Solomon Hoke, Daniel Tyson, Thomas Stephens, Martin Ebert, and William Wilt, twelve, free, honest and lawful men, of York

county, who being sworn or affirmed according to law, do find as follows, to wit:

Afterwards, that is to say, on the day and year last aforesaid, at the said borough of York, before the said court of quarter sessions of the peace for the county of York, in the said State of Pennsylvania, come as well the Commonwealth of Pennsylvania, as the within named Edward Prigg, and the jurors of the jury whereof mention is within made being summoned, also come, who, to speak the truth of the matters mentioned and alleged in said indictment, being chosen and sworn, say upon their oath, that at a session of the General Assembly of the Commonwealth of Pennsylvania, holden at the city of Philadelphia, on the first day of March, in the year one thousand seven hundred and eighty, the following law was passed and enacted, to wit, an act for the gradual abolition of slavery:

1. Sect. III. All persons as well negroes and mulattoes as others, who shall be born within this State shall not be deemed and considered as servants for life, or slaves; and all servitude for life, or slavery of children in consequence of the slavery of their mothers, in the case of all children born within this State from and after the passing of this act as aforesaid, shall be and hereby is, utterly taken away, extinguished, and forever abolished.

2. Sect. IV. Provided always, that every negro and mulatto child born within this State after the passing of this act as aforesaid (who would, in case this act had not been made, have been born a servant for years, or life, or a slave,) shall be seemed to be, and shall be, by virtue of this act, the servant of such persons, or her or his assigns, who would in such case have been entitled to like relief in case he or she shall be evilly treated by his or her master or mistress, and to like freedom dues and other privileges, as servants bound by indenture for four years are or may be entitled, unless the person to whom the service of any such child shall belong, shall abandon his or her claim to the same, in which case the overseers of the poor of the city, township, or district respectively, where such child shall be so abandoned, shall by indenture bind out every child so abandoned, as an apprentice, for a time not exceeding the age herein before limited for the service of such children.

3. Sect. V. Every person who is or shall be the owner of any negro or mulatto slave or servants for life, or till the age of thirty-one years, now within this State, or his lawful attorney, shall, on or before the first day of November next, deliver or cause to be delivered in writing to the clerk of the peace of the county, or to the clerk of the court of sessions of the city of Philadelphia, in which he or she shall respectively inhabit, the name and surname and occupation or profession of such owner, and the name of the county and township, district or ward wherein he or she resideth; and also the name and names of any such slave and slaves, and servant and servants for life, or 'till the age of thirty-one years, within this State, who shall be such on the said first day of November next,

from all other persons; which particulars shall by said clerk of the sessions and clerk of the said city court, be entered in books to be provided for that purpose by the said clerks; and no negro or mulotto now within this State shall from and after the said first day of November, be deemed a slave or servant for life, or 'till the age of thirty-one years, unless his or her name shall be entered as aforesaid on such records, except such negro or mulatto slaves and servants as are hereinafter excepted; the said clerk to be entitled to a fee of two dollars for each slave or servant so entered as aforesaid, from the treasury of the county, to be allowed to him in his accounts.

4. Sect. VI. Provided always, that any person in whom the ownership or right to the service of any negro or mulatto shall be vested at the passing of this act, other than such as are hereinbefore excepted, his or her heirs, executors, administrators and assigns, and all and every of them, severally shall be liable to the overseers of the poor of the city, township, or district to which any such negro or mulatto shall become chargeable, for such necessary expense, with costs of suit thereon, as such overseers may be put to, through the neglect of the owner, master or mistress of such negro or mulatto, notwithstanding the name and other descriptions of such negro or mulatto shall not be entered and recorded as aforesaid, unless his or her master or owner shall, before such slave or servant obtain his or her twenty-eighth year, execute and record in the proper county, a deed or instrument securing to such slave or servant his or her freedom.

6. Sect. VIII. In all cases wherein sentence of death shall be pronounced against a slave, the jury before whom he or she shall be tried, shall appraise and declare the value of such slave; and in case such sentence be executed, the court shall make an order on the State treasurer, payable to the owner for the same, and for the costs of prosecution; but in case of remission or mitigation, for the costs only.

7. Sect. IX. The reward for taking up runaway and absconding negro and mulatto slaves and servants, and the penalties for enticing away, dealing with, or harbouring, concealing or employing negro and mulatto slaves and servants, shall be the same, and shall be recovered in like manner, as in case of servants bound for four years.

8. Sect. X. No man or woman, of any nation or colour, except the negroes and mulattoes who shall be registered as aforesaid, shall at any time hereafter be deemed adjudged or holden, within the territories of this Commonwealth, as slaves or servants for life, but as free-men and free-women; except the domestic slaves attending upon delegates in Congress from the other American States, foreign ministers and consuls, and persons passing through or sojourning in this State, and not becoming resident therein, and seamen employed in ships not belonging to any inhabitant of this State, nor employed in any ship owned by any such inhabitant;

provided, such domestic slaves shall not be alienated or sold to any inhabitant, nor (except in the case of members of Congress, foreign ministers and consuls,) retained in this State longer than six months.

9. Sect. XI. (Repealed 25th March, 1826.)

Sect. XII. And whereas attempts may be made to evade this act, by introducing into this State negroes and mulattoes bound by covenant to serve for long and unreasonable terms of years, if the same be not prevented: Therefore,

10. Sect. XIII. No covenant of personal servitude or apprenticeship whatsoever, shall be valid or binding on a negro or mulatto for a longer time than seven years, unless such servant apprentice were, at the commencement of such servitude or apprenticeship, under the age of twenty-one years; in which case such negro or mulatto may be holden as a servant or apprentice, respectively, according to the covenant, as the case shall be, until he or she shall attain the age of twenty-eight years, but no longer.

Sec. XI. That this act or any thing herein contained shall not give any relief or shelter to any absconding or runaway negro or mulatto slaves or servant, who has absconded himself or shall abscond himself from his or her owner, master or mistress, residing in any other State or country; but such owner, master or mistress shall have like right and aid to demand, claim, and take away his slave or servant, as he might have had in case this act had not been made; and that all negro and mulatto slaves now owned and heretofore resident in other States, who have absconded themselves or been clandestinely carried away, or who may be employed abroad as seamen, and have not absconded or been brought back to their owners, masters or mistresses before the passing of this act, may within five years be registered as effectually as is ordered by this act concerning those who are not within this State, on producing such slave before any two justices of the peace, and satisfying the said justices by due proof of his former residence, absconding, running away, or absence of such slaves as aforesaid, who thereupon shall direct and order the said slaves to be entered on the record as aforesaid.

And the jurors aforesaid, upon their oaths aforesaid, further say, that at a session of the General Assembly of the Commonwealth of Pennsylvania, holden at the city of Philadelphia, on the twenty-ninth day of March, in the year one thousand seven hundred and eighty-eight, the following law was passed and enacted, to wit, "An act to explain and amend 'An act for the gradual abolition of slavery.'"

Sec. I. For preventing many evils and abuses arising from ill-disposed persons availing themselves of certain defects in the act for the gradual abolition of slavery, passed on the first day of March,

in the year of our Lord one thousand seven hundred and eighty, be it enacted:

Sec. II. The exception contained in the tenth section of the act of the first of March, one thousand seven hundred and eighty, relative to domestic slaves, attending upon persons passing through or sojourning in this State, and not becoming resident therein, shall not be deemed or taken to extend to the slaves of such persons as are inhabitants of or resident in this State, or who shall come here with an intention to settle and reside; but all and every slave or slaves who shall be brought into this State by persons inhabiting or residing therein, or intending to inhabit or reside therein, shall be immediately considered, deemed, and taken to be free, to all intents and purposes.

Sec. III. No negro or mulatto slave, or servant for term of years (except as in the last exception of the tenth section of the said act is excepted,) shall be removed out of this State, with the design and intention that the place of abode or residence of such slave or servant shall be thereby altered or changed, or with the design and intention that such slave or servant, if a female and pregnant, shall be detained and kept out of this State till her delivery of the child of which she is or shall be pregnant, or with the design and intention that such slave or servant shall be brought again into this State, after the expiration of six months from the time of such slave or servant having been first brought into this State, without his or her consent, if of full age, testified upon a private examination, before two justices of the peace of the city or county in which he or she shall reside, or being under the age of twenty-one years, without his or her consent, testified in manner aforesaid, and also without the consent of his or her parents, if any such there be, to be testified in like manner aforesaid, whereof the said justices, or one of them, shall made a record, and deliver to the said slave or servant a copy thereof, containing the name, age, condition, and the place of abode of such slave or servant, the reason of such removal, and the place to which he or she is about to go; and if any person or persons whatsoever shall sell or dispose of any such slave or servant to any person out of this State, or shall send or carry, or cause to be sent or carried, any such slave or servant out of this State, for any of the purposes aforesaid, whereby such slave or servant would loose those benefits and privileges which by the laws of this State are secured to him or her, and shall not have obtained all such consent as by this act is required, testified in the manner before mentioned, every such person and persons, his and their aiders and abettors, shall severally forfeit and pay, for every such offence, the sum of seventy-five pounds, to be recovered in any court of record, by an action of debt, bill, plaint or information, at the suit of any person who will sue for the same; one moiety thereof, when recovered, for the use of the plaintiff, the other moiety for the use of the poor of the city, township, or place from which such slave or servant shall be taken and removed.

Sec. IV. All persons who now are, or hereafter shall be possessed of any child or children, born after the first day of March, one thousand seven hundred and eighty, who would by the said act be liable, to serve till the age of twenty-eight years, shall on or before the first day of April, one thousand seven hundred and eighty-nine, or within six months next after the birth of any such child, deliver or cause to be delivered, in writing to the clerk of the place of the county, or the clerk of the court of record of the city of Philadelphia, in which they shall respectively inhabit, the name, sur-name, and occupation or profession of such possessor, and of the county, township, district or ward in which they reside, and also the age, (to the best of his or her knowledge) name and sex of every such child, or children, under the pain and penalty, of forfeiting and loosing all right and title to every such child and childern, and of him, her, or them, immediately becoming free, which said return or account in writing shall be verified by the oath or affirmation of the party, which the said clerks are hereby respectively authorised and required to administer, and the said clerks shall make and preserve records thereof, copies and extracts of which shall be good evidence in all courts of justice, when certified under their hands and seals of office, for which oath or affirmation, and entry on extract, the said clerks shall be respectively entitled to one shilling and six pence, and no more, to be paid by him or her, who shall so as aforesaid make such entry, or demand the extract aforesaid.

And whereas it has been represented to this house, that vessels have been fitted out and equipped in this port, for the iniquitous purpose of receiving and transporting the natives of Africa to places where they are held in bondage, and it is just and proper to discourage, as far as possible, such proceedings in future:

Sec. V. If any person or persons shall build, fit, equip, man, or otherwise prepare, any such ship or vessel, within any port of this State, or shall cause any ship or other vessel to sail from any port of this State, for the purpose of carrying on a trade or traffic in slaves to, from, or between Europe, Asia, Africa, or America, or any place or countries whatsoever, or of transporting slaves to or from one port or place to another, in any part or parts of the world, such ship or vessel, her tackle, furniture, apparel, and other appurtenances, shall be forfeited to the Commonwealth, and shall be liable to be seized and prosecuted by any officer of the customs, or other person, by information *in vene*, in the supreme court or in the county court of common pleas for the county wherein such seizure shall be made; whereupon such proceedings shall be had, both unto and after judgment, as in and by the impost laws of this Commonwealth in case of seizure is directed. And moreover, all and every person and persons so building, fitting out, manning, equipping, or otherwise preparing or sending away any ship or vessel, knowing or intending that the same shall be employed in such trade or business, contrary to the true intent and meaning of

this act, or in any wise aiding or abetting therein, shall severally forfeit and pay the sum of one thousand pounds, one moiety thereof to the use of the Commonwealth, and the other moiety thereof to the use of him or her who will sue for the same, by action, debt, bill, plaint, or information.

And whereas the practice of separating, which is too often exercised by the masters and mistresses of negro and mulatto slaves, or servants for term of years, in separating husbands and wives, and parents and children, requires to be checked, so far as the same may be done without prejudice to such masters or mistresses:

Sec. VI. If any owner or possessor of any negro, mulatto slave or slaves, or servant or servants for term of years, shall, from and after the first day of July next, separate or remove, or cause to be separated or removed, a husband from his wife, or wife from her husband, a child from his or her parents, or a parent from a child, or any or either of the descriptions aforesaid, to a greater distance than ten miles, with the design and intention of changing the habitation or place of abode of such husband or wife, parent or child, unless such child shall be above the age of four years, without the consent of such slave or servant for life or years shall have been obtained and testified in the manner hereinbefore described, such person or persons shall severally forfeit and pay the sum of fifty pounds, with costs of suit, for every such offence, to be recovered by action of debt, bill, plaint, or information, in the supreme court or in any court of common pleas, at the suit of any person who will sue for the same, one moiety thereof, when recovered, for the use of the plaintiffs, the other moiety for the use of the poor of the city, township or place, from which said husband or wife, parent or child, shall have been taken and removed.

(Sec. VII. Repealed 27th March, 1820, and 25th March, 1826.)

And the jurors aforesaid, upon their oath aforesaid, further say, that a session of the General Assembly of the Commonwealth of Pennsylvania, holden at Harrisburg, on the twenty-fifth day of March, in the year one thousand eight hundred and twenty-six, the following law was passed and enacted, to wit: An act to give effect to the provisions of the *of the* Constitution of the United States relative to fugitives from labor, for the protection of free people of color, and to prevent kidnapping:

Sec. I. If any person or persons shall from and after the passing of this act, by force and violence, take and carry away, or cause to be taken or carried away, and shall by fraud or false pretence, seduce, or cause to be seduced, or shall attempt so to take, carry away or seduce any negro or mulatto from any part or parts of this commonwealth, to any other place or places, whatsoever, out of this commonwealth, with a design and intention of selling and disposing of, or of causing to be sold, or of keeping and detaining,

or of causing to be kept and detained, such negro or mulatto, as a slave or servant for life, or for any term whatsoever, every such person, or persons, his or their aiders or abettors, shall on conviction thereof, in any court of this commonwealth having competent jurisdiction be deemed guilty of a felony, and shall forfeit and pay at the discretion of the court passing the sentence, a sum not less than five hundred, nor more than one thousand dollars, one half thereof shall be paid to the person or persons who shall prosecute for the same, and the other half to this commonwealth; and moreover shall be sentenced to undergo a servitude for any term or terms not less than seven years, nor exceeding twenty-one years, and shall be confined and kept to hard labor, fed and clothed in the manner as is directed, by the penal laws of this Commonwealth, for persons convicted of robbery.

Sec. II. If any person or persons shall hereafter, knowingly sell, transfer, or assign, or shall knowingly purchase, take, or transfer on assignment of any negro or mulatto, for the purpose of fraudulently removing, exporting, or carrying said negro or mulatto out of this State, with the design or intent by fraud or false pretences of making him or her a slave or servant for life, or for any term whatsoever, every person so offending shall be deemed guilty of a felony, and on conviction thereof, shall forfeit and pay a fine of not less than five hundred dollars, nor more than two thousand dollars, one half whereof shall be paid to the person or persons who shall prosecute for the same, and the other half to the Commonwealth; and moreover shall be sentenced at the discretion of the court to undergo a servitude for any term or time not less than seven years, nor exceeding twenty-one years, and shall be confined, kept to hard labor, fed and clothed in the same manner as is directed by the penal laws of this Commonwealth for persons convicted of robbery.

Sec. III. When a person held to labor or servitude in any of the United States, or in either of the territories thereof, under the laws thereof, shall escape into this Commonwealth, the person to whom such labor or service is due, his or her duly authorized agent or attorney, constituted in writing, is hereby authorized to apply to any judge, justice of the peace, or alderman, who on such application, supported by the oath or affirmation of such claimant or authorized agent or attorney, as aforesaid, that the said fugitive hath escaped from his or her service, or from the service of the person for whom he is duly constituted agent or attorney, shall issue his warrant under his hand and seal, and directed to the sheriff, or any constable of the proper city or county, authorising and empowering said sheriff, or constable, to arrest and seize the said fugitive, who shall be named in said warrant, and to bring said fugitive before a judge of the proper county, which said warrant shall be in the form or to the following effect:

"STATE OF PENNSYLVANIA, ——— *county, ss.*

The Commonwealth of Pennsylvania to the sheriff or any constable of ——— county, greeting.

Whereas it appears by the oath, or solemn affirmation of ——— ———, that ——— ———, was held to labor or service to ——— ———, of ——— county, in the State of ———, and the said ——— ——— hath escaped from the labor and service of the said ——— ———, you are therefore commanded to arrest and seize the body of the said ——— ——— if he be found in your county, and bring him forthwith before the person issuing the warrant, if a judge (or if a justice of the peace or alderman) before a judge of the court of common pleas, or of the district court, as the case may be, of your proper county, or recorder of a city, so that the truth of the matter may be enquired into, and the said ——— ——— be dealt with as the constitution of the United States, and the laws of this Commonwealth direct.

Witness our said judge (or alderman, or justice, as the case may be) at this ——— day of———, in the year of our Lord one thousand eight hundred and ——.

By virtue of such warrant the person named therein may be arrested by the proper sheriff, or constable to whom the same shall be delivered, within the proper city or county.

Sec. IV. No judge, justice of the peace or alderman shall issue a warrant on the application of any agent or attorney as provided in the said third section, unless the said agent or attorney, shall in addition to his own oath, or affirmation, produce the affidavit of the claimant of the fugitive, taken before and certified by a justice of the peace or other magistrate authorized to administer oaths in the state or territory in which such claimant shall reside, and accompanied by the certificate of the authority of such justice or other magistrate to administer oaths, signed by the clerk or prothmotary, and authenticated by the seal of a court of record, in such state or territory, which affidavit shall state the said claimants' title to the service of such fugitive, and also the name, age, and description of the person of such fugitive.

Sec. V. It shall be the duty of any judge, justice of the peace or alderman, when he grants or issues any warrant under the provisions of the third section of this act, to make a fair record on his docket of the same, in which he shall enter the name and place of residence of the person on whose oath or affirmation the said warrant may be granted; and also if an affidavit shall have been produced under the provisions of the fourth section of this act, the name and place of residence of the person making such affidavit, and the age and description of the person of the alledged fugitive contained in such affidavit, and shall, within ten days thereafter, file a certified copy thereof in the office of the clerk of the court of general quarter sessions of the peace, or mayor's court of the proper city or county; and any judge, justice of the peace or alder-

man, who shall refuse or neglect to comply with the provisions of this section, shall be deemed guilty of a misdemeanor in office, and shall on conviction thereof, be sentenced to pay, at the discretion of the court, any sum not exceeding one thousand dollars, one half to the party prosecuting for the same, and the other half to the Commonwealth. And any sheriff or constable, receiving and executing the said warrant, shall without unnecessary delay, carry the person arrested before the judge, according to the exigency of the warrant. And any sheriff or constable who shall refuse or wilfully neglect so to do, shall on conviction thereof, be sentenced to pay at the discretion of the court any sum not exceeding five hundred dollars, one half to the party prosecuting for the same, and the other half to the Commonwealth, or shall also be sentenced to imprisonment, at hard labor, for a time not exceeding six months, or both.

Sec. VI. The said fugitives from labor or service, when so arrested, shall be brought before a judge as aforesaid, and upon proof to the satisfaction of such judge that the person so seized or arrested, doth under the laws of the State or territory from which she or he fled from service or labor, to the person claiming him or her, it shall be the duty of such judge to give a certificate thereof to such claimant, his or her duly authorized agent or attorney, which shall be sufficient warrant for removing the said fugitive to the State or territory from which she or he fled: *Provided*, That the oath of the owner or owners, or other person interested, shall in no case be received in evidence before the judge on the hearing of the case.

Sec. VII. When the fugitive shall be brought before the judge, agreeably to the provisions of this act, and either party alledge and prove to the satisfaction of the said judge that he or she is not prepared for trial, and have testimony material to the matter in controversy that can be obtained in a reasonable time, it shall and may be lawful, unless security satisfactory to the said judge be given for the appearance of the said fugitive, or a day certain to commit the said fugitive to the common goal for safekeeping, there to be detained at the expense of the owner, agent, or attorney for such time as the judge shall think reasonable and just, and to a day certain, when the said fugitive shall be brought before him by *habeas corpus* in the court house of the proper county, or in term time at the chamber of the said judge, for final hearing and adjudication: *Provided*, That if the adjournment of the hearing be requested by the claimant, his agent or attorney, such adjournment shall not be granted unless the said claimant, his agent or attorney, shall give security satisfactory to the judge to appear and prosecute his claim on the day to which the hearing shall be adjourned: *Provided*, That on the hearing last mentioned, if the judge committing the said fugitive, or taking the security as aforesaid, should be absent, sick, or otherwise unable to attend, it shall be the duty of either of

the other judges, on notice given, to attend to the said hearing, and to decide thereon.

Sec. VIII. The officer which may or shall be employed in the execution of the duties of this act shall be allowed the same fees for service of process that sheriffs within this commonwealth are now allowed for serving process in criminal cases, and two dollars and fifty cents per day for each and every day necessarily spent in performing the duties enjoined on them by this act, to be paid by the owner, agent, or attorney immediately on the performance of the duties aforesaid.

Sec. IX. No alderman or justice of the peace of this commonwealth shall have jurisdiction or take cognizance of the case of any fugitive from labor from any of the United States or territories under a certain act of Congress passed on the tenth day of February, one thousand seven hundred and ninety-three, entitled "An act respecting fugitives from justice, and persons escaping from the service of their masters;" nor shall any alderman or justice of the peace of this commonwealth issue or grant any certificate or warrant of removal of any such fugitive from labor as aforesaid, except in the manner and to the effect provided in the third section of this act, upon the application, affidavit, or testimony of any person or persons whatsoever, under the said act of Congress, or under any other law, authority, or act of the Congress of the United States; and if any alderman or justice of the peace of this commonwealth shall, contrary to the provisions of this act, take cognizance or jurisdiction of the case of any such fugitive as aforesaid, except in the manner herein before provided, or shall grant or issue any cerificate or warrant of memorial as aforesaid, then, and in either case he shall be deemed guilty of a misdemeanor in office, and shall, on conviction thereof, be sentenced to pay at the discretion of the court any sum not less than five hundred dollars, nor exceeding one thousand dollars, or half thereof, to the party prosecuting for the same, and the other half to the use of the commonwealth.

Sec. X. It shall be the duty of the judge or recorder of any court of record in this commonwealth when he grants or issues any certificate or warrant of removal of any negro or mulatto claimed to be a fugitive from labor to the State or territory from which he or she fled, in pursuance of an act of Congress passed the twelfth day of February, one thousand seven hundred and ninety-three, entitled "An act respecting fugitives from justice, and persons escaping from the service of their masters," and of this act to make a fair record of the same, in which he shall enter the age, name, sex, and general description of the person of the negro or mulatto for whom he shall grant such certificate or warrant of removal, together with the evidence and the name of the places of residence of the witnesses, and the party claiming such negro or mulatto, and shall within ten days thereafter file a certified copy thereof in the office of the clerk of the court of general quarter sessions of the

peace, or mayor's court of the city or county in which he may reside.

Sec. XI. Nothing in this act contained shall be construed as a repeal or alteration of any part of an act of assembly passed the first day of March, one thousand seven hundred and eighty, entetled "An act for the gradual abolition of slavery," except the eleventh section of said act, which is hereby repealed and supplied, nor of any part of an act of assembly passed on the twenty-eighth day of March, one thousand seven hundred and eighty-eight, entitled "An act to explain and amend an act for the gradual abolition of slavery," except the seventh section of this last mentioned act, which is hereby supplied and repealed.

And the jurors aforesaid, upon their oaths aforesaid, do further say, that the negro woman, Margaret Morgan, in the within indictment mentioned, came into the State of Pennsylvania from the State of Maryland some time in the year eighteen hundred and thirty-two; that at that time, and for a long period before that time, she was a slave for life, held to labor, and owing service or labor for, under, and according to the laws of the said State of Maryland, one of the United States, to a certain Margaret Ashmore, a citizen of the State of Maryland, residing in Harford county, and that the said negro woman, Margaret Morgan, escaped and fled from the State of Maryland without the knowledge and consent of the said Margaret Ashmore; that in the month of February, eighteen hundred and thirty-seven, the within named defendant, Edward Prigg, was duly and legally constituted and appointed by the said Margaret Ashmore her agent or attorney to seize and arrest the said negro woman, Margaret Morgan, as a fugitive from labor, and to remove, take, and carry her from this State into the State of Maryland, and there deliver her to the said Margaret Ashmore; that as such agent or attorney the said Edward Prigg afterwards, and in the same month of February, eighteen hundred and thirty-seven, before a certain Thomas Henderson, Esquire, then being a justice of the peace in and for the county of York, in this State, made oath that the said negro woman, Margaret Morgan, had fled and escaped from the State of Maryland, owing service or labor for life, under the laws thereof, to the said Margaret Ashmore; that the said Thomas Henderson, so being such justice of the peace as aforesaid, thereupon issued his warrant, directed to one William McCleary, then and there being a regularly appointed constable in and for York county, commanding him to take the said negro woman, Margaret Morgan, and her children, and bring them before the said Thomas Henderson, or some other justice of the peace for said county; that the said McCleary, in obedience to said warrant, did accordingly take and apprehend the said negro woman, Margaret Morgan, and her children, in York county aforesaid, and did bring her and them before the said Thomas Henderson; that the said Henderson thereupon refused to take further cognizance of said case, and that the said Prigg afterwards, and without complying

with the provisions of the said act of the General Assembly of the Commonwealth of Pennsylvania, passed the 25th of March, 1826, entitled "An act to give effect to the provisions of the Constitution of the United States relative to fugitives from labor, for the protection of free people of color, and to prevent kidnapping," did take, remove, and carry away the said negro woman, Margaret Morgan, and her children, mentioned in said warrant, out of this State into the State of Maryland, and did there deliver the said woman and children into the custody and possession of the said Margaret Ashmore.

And the jurors aforesaid, upon their oaths aforesaid, further say, that one of the said children so taken, removed, and carried away, was born in this State more than one year after the said negro woman, Margaret Morgan, had fled and escaped from the State of Maryland as aforesaid.

But whether or not upon the whole matter aforesaid, by the jurors aforesaid in form aforesaid found the said Edward Prigg be guilty in manner and form as he stands indicted the jurors aforesaid are altogether ignorant, and therefore pray the advice of the court, and if upon the whole matter aforesaid it shall seem to the said court that the said Edward Prigg is guilty, then the jurors aforesaid, upon their oaths aforesaid, say that the said Edward Prigg is guilty in manner *in manner* and form as he stands indicted.

But if upon the whole matter aforesaid, it shall seem to the said court that the said Edward Prigg is not guilty, then the jurors aforesaid, upon their oaths aforesaid, say that the said Edward Prigg is not guilty in manner and form as he stands indicted.

Whereupon it is considered by the court that the said Edward Prigg is guilty in manner and form as he stands indicted.

J. MEREDITH,
Attorney for the Defendant, Edward Prigg.
OVID F. JOHNSON,
Attorney General for the Commonwealth.

The foregoing special verdict has been taken under the provisions of the second section of an act of the General Assembly of the Commonwealth of Pennsylvania, passed the 22d of May, 1839, entitled "An act relative to the trial of Bemis and others, in York county;" which said act, together with several acts referred to in said special verdict, it is hereby agreed may be read from the printed statute books in any future hearing or argument of this case.

J. MEREDITH,
For Edward Prigg, the Def't.
OVID F. JOHNSON,
Attorney General for the Commonwealth.